

AN ORDINANCE OF THE CITY OF FRISCO, TEXAS, AMENDING FRISCO'S COMPREHENSIVE ZONING ORDINANCE NO. 00-11-01, ARTICLE I, SECTION 11; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR REPEALING, SAVINGS AND SEVERABILITY CLAUSES; PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION HEREOF.

WHEREAS, the City Council of the City of Frisco, Texas ("City Council") has investigated and determined that Article I, Section 11 of the City of Frisco, Texas' ("Frisco") Comprehensive Zoning Ordinance No. 00-11-01 should be amended; and

WHEREAS, Frisco has complied with all notices and public hearings as required by law; and

WHEREAS, the City Council finds that it will be advantageous, beneficial and in the best interest of the citizens of Frisco to amend Frisco's Comprehensive Zoning Ordinance No. 00-11-01 as set forth below.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS:

SECTION 1: Findings Incorporated. The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

SECTION 2: Amendment to Article I, Section 11 of Frisco's Comprehensive Zoning Ordinance No. 00-11-01. Article I, Section 11 of Frisco's Comprehensive Zoning Ordinance No. 00-11-01 is hereby amended to read as follows:

SECTION 11

CHANGES AND AMENDMENTS TO ALL ZONING ORDINANCES AND DISTRICTS AND ADMINISTRATIVE PROCEDURES

11.01 AUTHORITY TO AMEND ORDINANCE:

The City Council may from time to time, after receiving a final report thereon by the Planning and Zoning Commission and after public hearings required by law, amend, supplement, or change the regulations herein provided or the boundaries of the zoning districts specified on the Zoning Map. Any Zoning Ordinance regulations may be ordered for consideration by the Planning and Zoning Commission or City Council. Any Zoning District boundary amendment may be ordered for consideration by the:

1. City Council;
2. Planning and Zoning Commission; or
3. the owner of the real property (or the authorized representative of an owner of real property)

In no case shall the City Council act upon any zoning request prior to recommendation by the Planning and Zoning Commission.

Each applicant for zoning or for an amendment or change to the existing provisions of this Zoning Ordinance shall submit a zoning application (available from the Planning Department) to the Planning Department on or before a scheduled submission date and shall be accompanied by payment of the appropriate fee as established by the City of Frisco, Texas. All applications received on a date other than an official submittal date shall be dated received on the next official submittal date. Applications must be complete for acceptance.

Consideration for a change in any district boundary line or special zoning regulation may be initiated only with written consent of the property owner, or by the Planning and Zoning Commission or City Council on its own motion when it finds that public benefit will be derived from consideration of such matter. In the event the ownership stated on an application and that shown on the City records are different, the applicant shall submit written proof of ownership.

Zoning Application Details

To ensure the submission of adequate information, the Planning staff is hereby empowered to maintain and distribute a list of specific requirements for zoning applications. Upon periodic review, the Planning staff shall have the authority to update such requirements for zoning application details.

11.02 PUBLIC HEARING AND NOTICE:

Zoning Changes

Prior to making its report to the City Council, the Planning and Zoning Commission shall hold at least one public hearing on each application. Before the tenth day before the hearing date before the Planning and Zoning Commission, written notice of each public hearing before the Planning and Zoning Commission on a proposed change in a zoning classification shall be sent to each owner, as indicated by the most recently approved Municipal Tax Roll, of property within two hundred feet (200') of the property in which the change in classification is proposed. The notice may be served by its deposit in the municipality, property addressed with postage paid, in the United States mail. Notice of City Council hearing shall be given by publication in the official newspaper of the City, stating the time and place of such hearing, a minimum of fifteen (15) days prior to the date of the public hearing.

Text Amendments

Notice of hearings on proposed changes in the text of the Zoning Ordinance shall be accomplished by one publication not less than fifteen (15) days prior to both the Planning and Zoning Commission and City Council meetings thereto in the official newspaper of the City. Changes in the ordinance text which do not change zoning district boundaries do not require written notification to individual property owners.

11.03 FAILURE TO APPEAR:

The Planning and Zoning Commission may deny a zoning application if the applicant or representative fail to appear at one (1) or more hearings before the Planning and Zoning Commission.

11.04 COMMISSION CONSIDERATION AND REPORT:

The Planning and Zoning Commission, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application. The Planning and Zoning Commission may table for not more than ninety (90) days from the time it is posted on the agenda until it has had opportunity to consider other proposed changes which may have a direct bearing thereon. Should the applicant wish to submit a request to table prior to the public hearing, the request shall be submitted in writing to the Planning Department a minimum of seven (7) days prior to the meeting. In making their determination, the Planning and Zoning Commission shall consider, among other things, the following factors:

1. Whether the uses permitted by the proposed change will be appropriate in the immediate area concerned and their relationship to the general area and the City as a whole.
2. Whether the proposed change is in accord with any existing or proposed plans for providing public schools, streets, water supply, sanitary sewers, and other utilities to the area, and shall note the findings.
3. The amount of vacant land currently classified for similar development in the vicinity and elsewhere in the City, and any special circumstances which may make a substantial part of such vacant land unavailable for development.

4. The recent rate at which land is being developed in the same zoning classification as the request, particularly in the vicinity of the proposed change.
5. How other areas designated for similar development will be, or are unlikely to be, affected if the proposed amendment is approved, and whether such designation for other areas should be modified also.
6. Any other factors which will substantially affect the health, safety, morals, or general welfare.

If the Planning and Zoning Commission denies the zoning request, it may offer reasons to the applicant for the denial.

Proposal Recommended for Denial by the Commission

When the Planning and Zoning Commission determines that a proposal should be denied, it shall so report and recommend to the City Council and Planning staff shall notify the applicant. If the proposal is denied by the Commission, the request shall not be forwarded to the City Council unless the applicant requests an appeal to the City Council or the request is sent for review by the Commission by simple majority vote. Upon denial of a request by the Planning and Zoning Commission, the applicant may, upon his own motion within fourteen (14) calendar days, file with the Planning Department a written request that a public hearing be scheduled and held before the City Council regarding the application. The applicant shall be responsible for the costs of renotification, including postage. When a proposed zoning request is heard by the City Council that has been denied by the Planning and Zoning Commission, a three-fourths (3/4) majority vote by the City Council shall be required for approval.

11.05 CITY COUNCIL CONSIDERATION

- A. **Proposal Recommended for Approval by the Commission:** Every proposal which is recommended favorable by the Planning and Zoning Commission shall be automatically forwarded to the City Council for setting and holding of public hearing thereon. No change, however, shall become effective until after the adoption of an ordinance for same and its publication as required by law.
- B. **City Council Consideration and Action:** City Council, after the public hearing is closed, may vote to approve, approve with amendments and conditions, table, or deny in whole or in part the application. Should the applicant wish to submit a request to table, the request shall be submitted in writing to the Planning Department a minimum of seven (7) days prior to the meeting.
- C. **Three-Fourths Vote:** If a protest against a proposed amendment, supplement or change to a zoning regulation or boundary has been filed with the Planning Department, duly signed and acknowledged by the owners of twenty percent (20%) or more, either of the area of the lots or land included in such a proposed change to a zoning regulation or boundary or the area of the lots, or land, immediately adjoining the area thereof extending two hundred feet (200') therefrom or of those directly opposite thereto extending two hundred feet (200') from the street frontage of such opposite lots, such amendments shall not become effective except by the affirmative vote of three-fourths (3/4) of all members of the City Council.

- D. **Denial by City Council:** The City Council may deny any request with prejudice. If a request has been denied with prejudice, the same or similar request may not be resubmitted to the City for six (6) months from the original date of denial.
- E. **Final Approval and Ordinance Adoption:** Approval of any zoning change, amendment, or supplement by the City Council at the scheduled public hearing shall constitute instruction to City staff to prepare the appropriate ordinance for final formal passage at a subsequent time. If finally approved by the required number of votes, the ordinance shall be executed by the Mayor.

SECTION 3: Penalty Provision: Any person, firm, corporation or business entity violating this Ordinance or any provision of Frisco's Comprehensive Zoning Ordinance No. 00-11-01, as it exists or may be amended, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding Two Thousand Dollars (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. The penal provisions imposed under this Ordinance shall not preclude Frisco from filing suit to enjoin the violation. Frisco retains all legal rights and remedies available to it pursuant to local, state and federal law.

SECTION 4: Savings/Repealing Clause: Frisco's Comprehensive Zoning Ordinance No. 00-11-01 shall remain in full force and effect, save and except as amended by this or any other Ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed, but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinance shall remain in full force and effect.

SECTION 5: Severability: Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. Frisco hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof regardless of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

SECTION 6 Effective Date: This Ordinance shall become effective from and after its adoption and publication as required by law the City Charter and by law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF FRISCO, TEXAS, on this _____ day of _____ 2001.

KATHLEEN A. SEEI, Mayor

ATTESTED AND CORRECTLY
RECORDED:

APPROVED AS TO FORM:

NAN PARKER, City Secretary

ABERNATHY, ROEDER, BOYD &
JOPLIN, P.C.
RICHARD M. ABERNATHY
City Attorneys

Date of Publication: _____, Frisco Enterprise